



JENNIFER M. GRANHOLM
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF ENVIRONMENTAL QUALITY
JACKSON DISTRICT OFFICE



STEVEN E. CHESTER
DIRECTOR

January 5, 2005

**DETERMINATION ON
BASELINE ENVIRONMENTAL ASSESSMENT PETITION**

Petitioner:
Creekside, L.L.C.
24 Frank Lloyd Wright Drive
P. O. Box 436
Ann Arbor, Michigan 48106

Petition #:
P200400595-JK

Determination:

BEA - Affirmed

Property Address/Location:
5860 Ford Road
Superior Twp., Michigan

The Department of Environmental Quality (DEQ) has reviewed Petition P200400595-JK for a determination on a Baseline Environmental Assessment (BEA). The petition was submitted pursuant to Section 20129a of Part 201, Environmental Remediation, of the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended (NREPA), MCL 324.20129a. Based on the petition, including representations made in the affidavits, the BEA, which was completed on November 19, 2004, and supporting materials submitted, the DEQ has determined that the BEA is affirmed.

This determination affirms that the BEA is adequate for the purpose of obtaining an exemption from liability pursuant to Section 20126(1)(c). The affirmative determination on the BEA is conditioned on the timely and satisfactory completion of any response activities described in the petition. This affirmative determination on the BEA is based on the proposed use of hazardous substances identified in the BEA. Pursuant to R 299.5919(2), if the petitioner sells or transfers the property, the petitioner is required to disclose the BEA to a subsequent owner or operator in order to be entitled to an exemption from liability.

In conjunction with the BEA, you have indicated that at a later date you will be submitting a request for the DEQ's opinion of whether your Section 20107a Compliance Analysis (Section 7a CA), if implemented as proposed, will be consistent with the due care obligations set forth in Section 20107a of the NREPA. Your Section 7a CA must be submitted by May 18, 2005, six months from the date the BEA for the property was completed. The Section 7a CA must be submitted with a copy of the petition form, including the petition number assigned by the DEQ, and a cover letter explaining that the Section 7a CA request is in conjunction with a prior request for determination relative to the BEA for the property. If you have any questions concerning the Section 7a CA, please contact the Jackson District Office at 517-780-7931.

In making this determination, the DEQ is not making any other findings about whether the petitioner is liable or covered by any other exemption from liability under Part 201. This determination on the BEA does not alter liability with regard to a subsequent release or threat of release or any exacerbation of existing conditions. The determination on the BEA is only for the person and property identified in the petition. The use of the property and any response activity undertaken must be in accordance with the requirements of all applicable or relevant and appropriate state and federal laws and regulations.

Notwithstanding this determination, the petitioner may also have responsibility under applicable state and federal laws, including, but not limited to Part 201, Environmental Remediation; Part 111, Hazardous Waste Management; Part 211, Underground Storage Tank Regulations; Part 213, Leaking Underground Storage Tanks; Part 615, Supervisor of Wells of the NREPA; and the Michigan Fire Prevention Code, 1941 PA 207, as amended.

The DEQ will maintain an administrative record of each BEA. If at any time you provide the DEQ with post-BEA information related to your BEA, the DEQ will retain such information with the administrative record. Such post-BEA information will not be considered part of the BEA, and acceptance of such information by the DEQ should in no way be construed to mean the DEQ will review or advise the petitioner regarding the adequacy of such information for any purpose.

The petitioner, as the owner and/or operator of a facility, has the following Due Care responsibilities under Section 20107a of Part 201 and Part 10 of the Part 201 Rules, unless covered by the exemptions in Section 20107a(4) or (5):

- Undertake measures as are necessary to prevent exacerbation of the existing contamination.
- Exercise due care by undertaking response activity necessary to mitigate unacceptable exposure to hazardous substances, mitigate fire and explosion hazards due to hazardous substances, and allow for the intended use of the facility in a manner that protects the public health and safety.
- Take reasonable precautions against the reasonably foreseeable acts or omissions of a third party and the consequences that foreseeably could result from those acts or omissions.
- Notify the DEQ if there are discarded or abandoned containers that contain hazardous substances on the property using Form EQP4476.
- Notify the DEQ and adjacent property owners if contaminants are migrating off the property (refer to Form EQP4482).
- Notify the local fire department if there is a fire or explosion hazard.
- Notify utility and easement holders if contaminants could cause unacceptable exposures and/or fire and explosion hazards.

Rule 1003(5) requires a person who is subject to the provisions of Section 20107a to maintain documentation of compliance with these requirements and to provide such documentation to the DEQ upon request. If the property use changes in the future, additional due care measures may be necessary. The property owner and operator must re-evaluate and document their continued compliance with Section 20107a.

The BEA constitutes a response activity, consequently, this determination is subject to Section 20137(4) and (5) of the NREPA.

Authorized signature:



Mitchell Adelman, District Supervisor
Remediation and Redevelopment Division
Jackson District
517-780-7852

1/5/2005
Date

Attachment

cc: Ms. Lynelle Marolf, DEQ